

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 11, 12 and 20-23 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1-16 and 19-23 remain pending in this application.

Claims 1-7, 9-16 and 19-23 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Number 6,826,173 to Kung *et al.* (hereinafter “Kung”). Applicant respectfully traverses this rejection for at least the following reasons.

Embodiments of the present invention provide for formation and transmission of notification messages in accordance with the multimedia message reception capabilities or user preferences. In accordance with embodiments of the invention, a network entity may access a database comprising data related to the reception capabilities or preferences of an intended recipient of media content. The network entity then forms a notification message containing information related to the media content in accordance with the reception capabilities or preferences of the intended recipient.

Kung fails to anticipate the invention as recited in the independent claims. As noted in a previous reply, Kung is directed mainly towards IP telephony services, such as voice and multimedia calls, which is real-time media. There is no teaching or suggestion in Kung of accessing the reception capabilities or preferences of a targeted recipient from a database. The Examiner cites Kung as disclosing this feature at col. 35, lines 61-67; col. 37, lines 65-67; col. 38, lines 1-11; and col. 38, lines 35-51. Applicant respectfully disagrees with this interpretation of the disclosure of Kung.

While the embodiments of the present invention relate to the reception capabilities or preferences of a targeted recipient, Kung discloses preferences of the sender, or caller. For example, Kung refers to “call set-up data of the caller” (Kung, col. 35, line 65) and “displaying actual and alternative calling party preference data” (Kung, col. 37, line 67 - col. 38, line 1). There is no teaching or suggestion in Kung of accessing the reception capabilities or preferences of a recipient.”

Further, Kung fails to teach or suggest a notification message, as recited in the independent claims. The Examiner cites col. 13, lines 44-57 of Kung, which describes an ability send messages, Col. 35, Lines 64-67, which describes the giving of an audible or visual message to a caller while the party is being located, and Col. 37, Lines 34-44, which describes sending reminders about events or time outgoing messages (e.g., Mother’s Day greetings). However, none of the cited portions teaches or suggests a notification message, as recited in the independent claims of the present application.

Thus, Kung fails to anticipate claims 1-7, 9-16 and 19-23;.

Claim 8 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kung in view of U.S. Patent Number 6,826,173 to Ehrlich *et al.* As noted below, claim 1 is patentable. Claim 8 depends from claim 1 and is, therefore, patentable for at least that reason, as well as for additional patentable features when that claim is considered as a whole.

Alternatively, the Claims 1-16 and 19-23 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Number 6,556,217 to Makipaa *et al.* (hereinafter “Makipaa”). Applicant respectfully traverses this rejection for the following reasons.

As noted in an earlier response, Makipaa relates to pagination of content based on the capabilities of a terminal. Makipaa does not relate to multimedia messaging and, therefore, fails to teach or suggest “media content relating to multimedia messaging.”

Further, there is no teaching or suggestion in Makipaa of any notification message as recited in the pending independent claims. The Examiner cites Makipaa as disclosing this

feature at col. 5, lines 40-53. Applicant respectfully disagrees with this interpretation of the disclosure of Makipaa.

The notification message recited in the pending claims includes information that the media content is available to be streamed to the recipient. By contrast, Makipaa merely discloses providing updated content, such as real-time stock quotes. Thus, Makipaa discloses providing the actual content, not any notification message. Therefore, Makipaa fails to teach or suggest at least this feature of the pending independent claims.

Thus, Makipaa fails to anticipate the pending claims. Further, Applicant notes that Makipaa is unavailable as a reference in any rejection under 35 U.S.C. § 103(a). Specifically, Makipaa was granted on July 4, 2002, after the filing date of the present application. Accordingly, Makipaa is a prior art reference under 35 U.S.C. § 102(e). Further, Applicant notes that Makipaa was owned by the assignee of the present application at the time of the present invention was made. Specifically, Nokia Corporation is the owner of the entire right, title, and interest in and to Makipaa by virtue of an Assignment filed and recorded on October 17, 2000, on Reel/Frame 011258/0564, and Nokia Corporation is the owner of the entire right, title, and interest in and to the present claimed invention by virtue of an Assignment filed and recorded on May 21, 2002, on Reel/Frame 012932/0238.

Prior art under subsection (e) of 35 U.S.C. § 102 “shall not preclude patentability” where the reference and the claimed invention “were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Accordingly, Applicant respectfully requests that Makipaa cannot be relied upon for rejection of the pending claims.

Applicant has amended claims 11, 12 and 20-23 to more clearly recite certain aspects of the invention. The amendments do not affect the patentability of those claims.

Thus, independent claims 1, 11, 12, 13 and 23 are patentable. Claims 2-10, 14-16 and 19 depend, either directly or indirectly, from allowable claim 1 and are, therefore, patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole. Similarly, claim 20 depends from allowable claim 11, claim 21

depends from allowable claim 12, and claim 22 depends from allowable claim 13. Therefore, claims 20-22 are patentable for at least that reason, as well as for additional patentable features when those claims are considered as a whole.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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